

Section 57

TELECOMMUNICATIONS

Sections:

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57.010 Intent.

A. The zoning jurisdiction has the authority to regulate the placement, construction, and modification of wireless telecommunications service facilities; and

B. The commission finds that:

1. It is necessary to determine the appropriate location for placement of towers and antennas to serve local residents and businesses; and
2. The zoning jurisdiction desires to promote co-location and use of alternative tower structures to minimize the need to construct new towers; and
3. Consistent with applicable law, the zoning jurisdiction desires to minimize the adverse visual impacts of towers and antennas through careful siting, design, landscape screening, and innovative camouflaging screening; and
4. The zoning jurisdiction seeks to ensure against potential health and safety hazards to citizens and prevent damage to adjacent properties; and
5. The zoning jurisdiction intends to exercise, to the fullest extent permitted by applicable law, its authority with respect to the regulation of the placement, construction, and modification of wireless telecommunications service facilities.

57.030 Review Procedures.

A. Purpose. The purpose of this section is to describe the standards and conditions under which certain uses may be permitted as principal or conditional uses in specific districts.

B. General Application. All uses listed in this section shall be subject to the specific standards described for each use, in addition to all other applicable standards which may apply, and limited to those districts specified. The provisions of this section apply to Large Scale Broadcast Facilities and Small Scale Broadcast Facilities as defined in Section 4. The provisions of this section do not apply to facilities which meet the definition of Essential Services (Type I) as defined in section 4.640, nor to private antennae which are limited to reception only.

C. The following review procedures shall be utilized in the review of Large Scale Broadcast Facilities.

1. A Large Scale Broadcast Facility shall be considered as a principal use in the M-1, M-2, and PLI districts, provided the facility meets all applicable standards, and shall be reviewed under the terms of Section 52 and this section. A Large Scale

- Broadcast Facility which establishes a second principal use on a proposed site will require a major site plan. A Large Scale Broadcast Facility proposed to be mounted on an existing structure may be reviewed, at the discretion of the planning director, as a minor site plan. A Large Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for Large Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, may be required to submit only a Sketch Plan, as described in Section 52.
2. A Large Scale Broadcast Facility shall be considered as a Conditional Use in the BP, B-1, and B-2 districts and subject to Conditional Use Permit review as described in Section 53. The commission, in approving such a conditional use permit, shall find that the service provided by the proposed facility cannot be adequately received from other properly zoned locations. A Large Scale Broadcast Facility may not exceed the established maximum building height in the BP, B-1, or B-2 districts. A Large Scale Broadcast Facility shall not be permitted in the AS, RS, R-1, R-2, R-2a, R-3, R-3a, R-4, R-O, and R-MH districts, except as part of a Planned Unit Development reviewed under Section 54, and only upon a demonstration that the service provided by the proposed facility cannot be adequately received from other properly zoned locations.
 3. A Large Scale Broadcast Facility proposed to be located in the Entryway Overlay districts shall require additional information.

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D. The following review procedures shall be utilized in the review of Small Scale Broadcast Facilities.

1. A Small Scale Broadcast Facility shall be considered as a principal use in the M-1, M-2, and PLI districts, provided the facility meets all applicable standards, and shall be reviewed as a minor site plan under the terms of Section 52 and this section. A Small Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for either Large or Small Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, may be required to submit only a Sketch Plan, as described in Section 52.
2. A Small Scale Broadcast Facility shall be considered as a principal use in the B-1, B-2, and BP districts, provided the proposed installation meets the definition of Stealth installation in subsection 57.020.B, and provided further, that the facility does not exceed the established maximum building height for the district proposed for such use. A Small Scale Broadcast Facility shall be reviewed as a minor site plan under the terms of Sections 52 and this section. A Small Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for either Large or Small Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, may be required to submit only a Sketch Plan, as described in Section 52. A Small Scale Broadcast Facility proposed to exceed the established maximum building height may be permitted upon a determination that the service provided by the proposed facility cannot be adequately received from other properly zoned locations.
3. A Small Scale Broadcast Facility shall be considered as a conditional use in the AS, RS, R-1, R-2, R-2a, R-3, R-3a, R-4, R-O, and R-MH districts and subject to Conditional Use Permit review as described in Section 53. All Small Scale

Broadcast Facilities in these districts must be Stealth installations, as defined in subsection 57.020.B, and may not exceed the established maximum building height for the district proposed for such use. The commission, in approving such a conditional use permit, shall find that the service provided by the proposed facility cannot be adequately received from other properly zoned locations.

4. A Small Scale Broadcast Facility proposed to be located in the Entryway Overlay districts shall require additional information.

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5. A broadcast facility of less than 500 watts effective radiated power proposed for the sole and exclusive, on-site use of a business, which business has otherwise been approved under Section 52, 53, or 54, and found to be in compliance with the maximum building height limitations of the zoning district, with all setback and other zoning requirements, and which has four or less square feet of total antenna surface area, may be permitted as an accessory use in any non-residential district.

E. Submittal requirements for Large Scale and Small Scale Broadcast Facilities. The following information and data shall be submitted for broadcast facility plan review.

1. Site and landscape plans drawn to scale.
2. A report including a description of the tower with technical reasons for its design.
3. Documentation establishing the structural integrity for the tower's proposed used.
4. The general capacity of the tower, and information necessary to assure that ANSI standards are met.
5. A statement of intent on whether excess space will be leased.
6. Proof of ownership of the proposed site or authorization to utilize it.
7. Copies of any easements necessary.
8. An analysis of the area containing existing topographical contours; and
9. A visual study depicting "where within a three (3) mile radius any portion of the proposed tower could be seen."

57.040 Standards.

A. Safety. The following information shall be provided with all applications to establish or modify a Small Scale Broadcast Facility or Large Scale Broadcast Facility.

1. A statement of whether the proposed facility is exempt or non-exempt from environmental review under the Rules of the FCC. If the facility is claimed to be exempt, a detailed and specific citation to the Rules of the FCC indicating the section which details the relevant exemption provisions shall be included. If the facility is not exempt from environmental review a copy of the environmental review and the approval from the FCC for the site shall be provided to Gallatin County and to the City of Bozeman prior to the issuance of a building permit.
2. If the facility is claimed to be exempt from environmental review a statement shall be provided, under oath and notarized, that the proposed or existing facility does or will comply with FCC radio frequency emission guidelines for both general population/ uncontrolled exposures and occupational/controlled exposures as defined in the FCC rules. The provision of false information shall result in the immediate revocation of permits or approvals granted upon the basis of the false information and the cessation of operation of the offending facilities.

3. A building permit shall be obtained prior to the installation of any telecommunications facility. The structural design for all antenna support structures 10 feet or greater in height or which have attached more than four square feet of total antenna area shall be certified by a professional structural engineer licensed to practice in the State of Montana.
4. All Small Scale Broadcast Facility and Large Scale Broadcast Facility shall meet or exceed current standards and regulations of the FCC, FAA, and any other agency with the authority to regulate towers and antennas. If such standards are changed the owner shall modify the installation to comply with the new standards within 6 months of the effective date of the new standards or regulations unless a different implementation schedule is required by the issuing agency.
5. Towers with a base located at grade shall be enclosed within a secure fence not less than six feet in height or the tower itself shall be equipped with an appropriate anti-climbing device.

B. Setbacks/Aesthetics

1. The provisions of this section may be waived by the approval body as determined by Sections 52 or 53 where it has been demonstrated that the waiver will result in superior compliance with the intent and purposes of this title.
2. New towers greater than forty feet in height shall accommodate at least three service providers with accompanying area for equipment and access. Where multiple providers will be utilizing the same area and/or support structure, consideration should be given to the provision of a single building or other similar integration of equipment housing. A new tower may meet this requirement by correctly sizing the foundation and other structural elements to allow the future addition of height to the structure to accommodate additional users rather than immediately constructing the entire tower. This requirement will be able to be waived by the governing body upon a showing of fact to overcome the presumption that multiple transmitters are desirable on a tower.
3. An applicant for a new tower in excess of forty feet (40') in height shall demonstrate that there are no available openings on existing facilities which are technically and financially feasible and that a new structure is necessary. A site shall be deemed financially feasible if the cost is equal to or less than the cost of constructing a new tower.
4. All installations shall be as visually unobtrusive as is feasible. FAA and FCC regulations may require visual marking and lighting and may not be overridden by local regulations in this area. Unless otherwise required by the FAA or FCC towers shall be of a galvanized finish or be painted in neutral colors. Facilities and equipment mounted on existing structures shall be visually incorporated into the structure or background by the use of architectural elements, color, screening, or other methods. Installations located within the Conservation Overlay or Entryway Overlay districts shall be reviewed against the criteria of Section 43 as applicable.
5. No lighting or signage except a single four (4) square foot business identification sign is allowed unless such lighting or signage is required by the FAA, FCC, Gallatin County or for a building permit from the City of Bozeman.

6. Special setbacks for towers shall be provided and/or a design for internal structural collapse to avoid damage or injury to adjoining property or users shall be provided.
 - a. Residential district setbacks for a Large Scale Broadcast Facility shall be 100% of tower height which may be reduced to no less than 50% upon the provision and approval of an engineered design, stamped by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller collapse area.
 - b. A Large Scale Broadcast Facility in non-residential zones shall provide a minimum setback from the property lines of 75% of tower height which may be reduced to no less than 20% of tower height upon the provision and approval of an engineered design, stamped by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller collapse area. All installations shall maintain the minimum zoning district setbacks including special setbacks for entryway corridors. An application for an Large Scale Broadcast Facility located less than 100% of the tower height from the property line shall include a narrative addressing the issue of ice fall.
7. All structures shall be constructed in conformance with the most recent version of either the standards of the Uniform Building Code or the Electronics Industries Association and the Telecommunications Industry Association, commonly cited as EIA/TIA 222-E standards. The most rigorous standard shall govern.
8. Visual screening shall be provided in all residential areas and where a facility is located within a non-residential area which is visible, at grade, from a residential area. Screening shall provide an opaque screen within 18 months of establishment and be a minimum of four feet in height. The screening may be of landscape materials or a fence which otherwise complies with the zoning code. The site shall comply with the landscaping provisions of the zoning code as contained in Section 46.
9. Materials on the exterior of equipment shelters used in residential areas shall be of materials commonly used in the neighborhood. The architectural design of the shelter shall be compatible with surrounding residential structures. The intent of the requirements of this paragraph may be met by providing fencing or other visual screening compatible with the neighborhood, in compliance with all other sections of the code, which will obscure the entire equipment shelter. The screening shall be in place prior to the commencement of operations of the facility.
10. All Small Scale Broadcast Facilities established in one of the recognized historic districts or entry way overlay districts shall be installed in such a way as to maintain the historic or architectural character of the host site. All sites shall maintain the least possible visual obtrusiveness.
11. Applicants for a Small Scale Broadcast Facility or a Large Scale Broadcast Facility in residential areas shall provide an accurate photo simulation of the site with the proposed facility in place. The simulation shall be to scale, and include all feasible antennae depicted on the tower. Landscaping which is not shown or proposed on the accompanying site plan shall not be included in the simulation unless it exists on adjoining properties.

C. Administrative

1. An inventory of existing sites utilized by the applicant shall be provided. The inventory shall note the feasibility of accommodating other users. The county may share this information with other applicants or interested parties to encourage co-location.
2. The public land and agencies exemption from full compliance with zoning in Section 76-2-402, Montana Code Annotated does not apply to private entities utilizing publicly owned lands.
3. All facilities shall be removed within 9 months of the cessation of operations. If a facility is not removed within 9 months the county shall remove the facility at the facility or land owners expense. Where multiple users share a facility the non-operational antennae shall be removed but any common equipment may be retained until all users have terminated the utilization of the site.
4. Any emergency power supply or other equipment installed at the facility must comply with subsection 50.035.I, Noise.
5. No facilities may be established in residential areas which require employees to be present on a routine basis, with the exception of periodic maintenance activities, unless the zone allows offices as a permitted or conditional use and appropriate review has been completed.
6. Failure to comply with the terms of the zoning regulation shall be grounds for facilities to be removed by action of the county at the owners expense.
7. Any modifications to existing broadcast sites may only occur in compliance with the review procedures required in section 57.030.
8. Denial of an application shall be made only after the review body has determined that specific criteria of this title can not be met. Said determination shall be made in writing and shall include the reasons for the denial and the evidence which supports those reasons. Public opposition alone is not sufficient to deny the application.